

1 Thomas G. Waller, AKB #0109052
BAUER MOYNIHAN & JOHNSON LLP
2 2101 4TH Avenue - 24th Floor
Seattle, WA 98121
3 Telephone: (206) 443-3400
Facsimile: (206) 448-9076
4 tgwaller@bmjlaw.com

5 Attorneys for Defendant

6 UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ALASKA

8 NEWTOK VILLAGE,

9 Plaintiff,

10 v.

11 LYNDEN AIR CARGO, LLC d/b/a
12 LYNDEN AIR CARGO,

13 Defendant.

NO. 3:20-cv-00071-TMB

**DEFENDANT'S RESPONSE
AND PARTIAL OPPOSITION
TO PLAINTIFF'S MOTION
TO STAY DISCOVERY AND
OTHER DEADLINES SET
FORTH IN THE PRE-TRIAL
ORDER**

14 Defendant Lynden Air Cargo, LLC partially opposes, but otherwise assents, to
15 Newtok Village's Motion to Amend Complaint (First).

16 **PARTIAL OPPOSITION:** Defendant LAC opposes plaintiff's Motion to the extent it
17 relieves plaintiff of disclosing a necessary document, readily-available to plaintiff, and
18 requested both formally and informally by defendant. LAC also seeks clarification that
19 plaintiff Newtok will promptly produce discovery documents already overdue,
20 immediately upon expiration of the Stay.

21 1. Tribal Procurement Code: LAC has requested informally and formally (in written
22 discovery to plaintiff) the Tribal Procurement Code referenced in para. 30 and 31 of
23 plaintiff's First Amended Complaint. Dkt. 36. The Code is needed by defendant to
24 evaluate and understand plaintiff's newly formulated claims in the First Amended
25

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ATTORNEYS AT LAW

BAUER
MOYNIHAN
& JOHNSON LLP

2101 FOURTH AVENUE
SUITE 2400
SEATTLE, WA 98121

(206) 443-3400
FAX (206) 448-9076

1 Complaint. Waiting two months or more for receipt of the easily-produced document will
2 merely further delay litigation and resolution.

3 Defendant LAC asked plaintiff's counsel, in a letter dated August 6: "Please send
4 us a copy of §17.4 of the Tribal Procurement Code; actually, please send us the entire
5 Code. Our brief research on several legal databases has not found it." Waller Decl., Ex.
6 1.

7 Defense counsel renewed the request, by email, later that same date (August 6):
8 "We kindly asked in our letter today that you provide us information and documents to
9 review with our client. We renew the request, including the request for the Tribal
10 Procurement Code." Waller Decl., Ex. 2.

11 Plaintiff rejected the request in an email of August 7: "You will receive the
12 requested documents thru the normal process [.]" Waller Decl.

13 Defendant promptly sent plaintiff Newtok, on September 1, discovery requests for
14 Tribal reports or resolutions," in three separate, formal Requests for Production. Waller
15 Decl., Ex. 3. (RFP Nos. 1, 2, 19) The requests were made after counsel's comprehensive
16 search elsewhere for the document failed. Waller Decl., Ex. 3.

17 Plaintiff answered interrogatories and requests for admission covering other topics,
18 but has failed and refused to produce the Tribal Procurement Code.

19 2. Discovery Documents: LAC sent Newtok requests for production on September 1.

20 Responsive documents were due in defense counsel's office no later than October 5, 2020.

21 Waller Decl. In lieu of producing the required discovery documents, Newtok filed its
22 immediate Motion to Stay the exact day its discovery documents were due.

23 Having already had 30+ days to gather and produce responsive documents,
24 plaintiff Newtok now requests an additional 60 days to organize itself. Defendant does
25 not object to the Stay as long as Newtok produces its already-overdue discovery

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1 documents on the same day the Stay expires.

2 Assent: Defendant otherwise agrees to the stay of discovery and all other
3 deadlines, as requested by plaintiff.

4 Dated this Thursday, October 8, 2020.

5 *I certify this memorandum does not exceed*
6 *20 pages or 5,700 words.*

7
8 BAUER MOYNIHAN & JOHNSON LLP

9 

10 _____
11 Thomas G. Waller, AKB #0109052

12 CERTIFICATE OF SERVICE

13 I declare under penalty of perjury of the laws of the United States of
14 America that on October 8, 2020 I electronically filed the above
15 document with the Clerk of Court using the E-FILING system, and
served the foregoing document on the parties listed below by the
methods indicated:

16 Michael J. Walleri
17 Gazewood & Weiner, PC
18 1008 16th Ave., Suite 200
Fairbanks, Alaska 99701

[x] E-Mail
[] Facsimile
[] U.S. Mail
[] Hand Delivery

19 BAUER MOYNIHAN & JOHNSON LLP

20 ATTORNEYS AT LAW

BAUER
MOYNIHAN
& JOHNSON LLP

21 2101 FOURTH AVENUE
SUITE 2400
SEATTLE, WA 98121

22 (206) 443-3400
23 FAX (206) 448-9076

24 /s/Kendrick Chan

25 Kendrick Chan

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